

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROGER D. HALL,

Plaintiff,

No. 2:12-cv-275-CL

v.

OREGON DEPARTMENT OF
CORRECTIONS,

ORDER

Defendant.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Report and Recommendation, the district court makes a de novo determination of that portion of the magistrate judge's report. 28 U.S.C. §

636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981). Here, plaintiff has filed objections, so I have reviewed this matter de novo.

I agree with Magistrate Judge Clarke that Roger Hall is the only proper plaintiff. I also agree that claim preclusion bars plaintiff's claims. This court granted summary judgment based on claim preclusion in a previous action where plaintiff also alleged improper garnishment of his prison trust account. Hall v. Williams, No. 1:11-cv-493-CL. Plaintiff cannot avoid claim preclusion by substituting a new defendant not named in the previous action. See Golden v. Pacific Maritime Ass'n, 786 F.2d 1425, 1427-28 (9th Cir. 1986).

Plaintiff argues that the Report and Recommendation should be stricken because he did not consent to a magistrate judge. This court will not disfavor a party in any way for choosing not to consent to a magistrate judge. A party's decision not to consent, however, does not result in the reassignment of a case from a magistrate judge to a district judge. Both district judges and magistrate judges are included in the random assignment of new civil case filings. When a magistrate judge is randomly assigned as the presiding judicial officer, the magistrate judge conducts all pretrial proceedings in accordance with Federal Rule of Civil Procedure 72. See LR 72-1 (practice tip). When, as here, a party does not consent to a magistrate judge, a district judge reviews the magistrate judge's Report and Recommendation on dispositive pretrial matters. Lack of consent is not a basis for striking the

Report and Recommendation.

Plaintiff's other objections also lack merit.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#11) is adopted. Plaintiff's motions (#4, #8) are denied as moot.

IT IS SO ORDERED.

DATED this 26 day of March, 2012.



OWEN M. PANNER
U.S. DISTRICT JUDGE